

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM N. MOSELEY, JR.,

Plaintiff,

v.

TRUTH FOR HEALTH FOUNDATION, et
al.,

Defendants.

Case No. 1:22-cv-01258-ADA-SAB

ORDER DISCHARGING ORDER TO
SHOW CAUSE, GRANTING EXTENSION
OF TIME TO COMPLETE SERVICE, AND
CONTINUING SCHEDULING
CONFERENCE

(ECF Nos. 5, 6, 8)

Plaintiff initiated this action on October 3, 2022. (ECF No. 1.) On the same date, summonses were issued to Defendants. (ECF No. 2.) A scheduling conference is currently set for February 28, 2023. (See ECF No. 7.) On December 20, 2022, the Court ordered Plaintiff to file a notice of the status of service on Defendants. (ECF No. 5.) On December 28, 2022, the Court ordered Plaintiff to show cause in writing why sanctions should not issue for the failure to file proofs of service in this action and diligently prosecute this action in preparation of the scheduling conference, and for the failure to file the required status report, in compliance with the Court's December 20, 2022 order. (ECF No. 6.)

On January 3, 2023, Plaintiff filed a response to the Court's order to show cause and status report as to service in this action. (ECF No. 8.) Plaintiff's counsel proffers a situation regarding a client from an unrelated matter, who suffers from severe mental illnesses, arose over the holidays and counsel was required to take this client to the emergency room and attend to

1 him. As a result, counsel proffers he was taken away from the office failed to timely file a status
2 report in the instant matter. As to the status of service, Plaintiff asserts he has experienced much
3 difficulty in locating and serving Defendants Vice Admiral John B. Nowell and Captain Shea
4 Thompson, due to difficulties in obtaining information regarding their addresses through private
5 investigators and from the military, gaining permissions to effect service on a military base, and
6 working with the appropriate Judge Advocate Generals (JAG) to facilitate service. Plaintiff
7 therefore requests a thirty-day extension of time to effect service on these Defendants.

8 As to Plaintiff's response to the order to show cause, the Court is satisfied with this
9 response and shall discharge the order to show cause.

10 As to Plaintiff's status report on service, Rule 4(m) provides that "If a defendant is not
11 served within 90 days after the complaint is filed, the court—on motion or on its own after notice
12 to the plaintiff—must dismiss the action without prejudice against that defendant or order that
13 service be made within a specified time." Fed. R. Civ. P. 4(m). "But if the plaintiff shows good
14 cause for the failure, the court must extend the time for service for an appropriate period." Id.

15 Here, the Court finds good cause to extend the deadline to effectuate service, and will
16 further continue the mandatory scheduling conference to accommodate the extension. Fed. R.
17 Civ. P. 4(m); Fed. R. Civ. P. 16(b).

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The December 28, 2022 order to show cause (ECF No. 6) is DISCHARGED;
- 20 2. Plaintiff's request for an extension of time to complete service pursuant to Fed. R.
21 Civ. P. 4(m) (ECF No. 8) is GRANTED;
- 22 3. The deadline for Plaintiff to complete service on Defendants shall be extended to
23 **February 3, 2023**;
- 24 4. The scheduling conference currently set for February 28, 2023, is CONTINUED
25 to **March 23, 2023**, at **2:30 p.m.** in **Courtroom 9**; and

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5. The parties shall file a joint scheduling report **seven (7) days** prior to the scheduling conference.

IT IS SO ORDERED.

Dated: **January 4, 2023**


UNITED STATES MAGISTRATE JUDGE